

**THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
Alexandria Division**

UNITED STATES OF AMERICA,

v.

Case No. 19-cr-101

MITCHELL, Anthony Eric

Defendant.

MOTION FOR MISTRIAL

COMES NOW the Defendant, Anthony E. Mitchell, by counsel, and moves this Court for entry of an Order declaring a mistrial of this matter and in support hereof, states as follows:

1. During the preparation of his case, the Defendant learned that Tom Mariano, a witness called by the government in its case threatened one of the Defendant's witnesses, Felix Maye. This threat occurred on or about October 14, 2019. See Exhibit 1.

2. As a result of this information, Defendant Anthony Mitchell recalled that he was similarly threatened by Tom Mariano on or about June 2, 2019. See Exhibit 2.

3. Undersigned counsel is unable to determine the impact on Mr. Maye's testimony of the threat from Tom Mariano who Mr. Maye does not know.

4. This pattern of behavior by Tom Mariano has threatened the integrity of the herein proceedings by affecting the testimony of Mr. Mitchell and Mr. Maye.

5. Mr. Mitchell does not suggest that the United States in any way knew of or approved of Mr. Mariano's actions.

LAW:

In considering a motion for a mistrial, the Court must determine the extent of prejudice, closeness of the case, centrality of the issue affected and steps taken by the trial court to mitigate the effects of the complained of action. *United States v. Nyman*, 649 F.2d 208, 212 (4th Cir 1980). The court must consider whether there was a reasonable possibility that the jury's verdict could be influenced by the improper activity. *United States v. Seeright*, 978 F.2d 842, 849 (4th Cir 1992).

WHEREFORE, Anthony Mitchell, by counsel, moves this Court for can Order declaring a mistrial and for such further and other relief as it deems necessary under the circumstances of its case.

Respectfully submitted,
Anthony Mitchell
By Counsel

_____/s/_____
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CERTIFICATE OF SERVICE

THIS IS to certify that true copies of the foregoing were served by ECF upon:

Jamar Walker, Esq.
Asst. U.S. Attorney
2110 Jamieson Street
Alexandria, VA 22314

Date: October 14, 2019

_____/s/_____
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ORDER

THIS MATTER having come before this Court on the Defendant's Motion to Declare
Mistrial, and

IT APPEARING that good cause exists for such motion, it is, therefore,

ORDERED that the motion be, and hereby is, granted.

Enter: _____

Hon. Anthony J. Trenga